

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

CRAIG TITUS,

v.

Plaintiff,

Case No. 3:18-cv-00146-MMD-CLB

ORDER

JAMES DZURENDA, *et al.*,

Defendants.

12 Before the Court is the Report and Recommendation of United States Magistrate
13 Judge Carla L. Baldwin (ECF No. 42) (“R&R”), recommending that the Court grant
14 Defendants’ motion for summary judgment (“Motion”) (ECF No. 29). Plaintiff filed an
15 objection to the R&R (“Objection”).¹ (ECF No. 43.) As discussed further below, the Court
16 agrees with Judge Baldwin’s reasoning and adopts the R&R in full.

17 The Court adopts the facts outlined in the R&R (ECF No. 42 at 1-4) and does not
18 recite them here.

19 This Court “may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
21 timely objects to a magistrate judge’s report and recommendation, then the court is
22 required to “make a *de novo* determination of those portions of the [report and
23 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails
24 to object, however, the court is not required to conduct “any review at all . . . of any issue
25 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); see also

¹The Court has also reviewed Defendants' response (ECF No. 44).

1 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
2 of review employed by the district court when reviewing a report and recommendation to
3 which no objections were made); Fed. R. Civ. P. 72, Advisory Committee Notes (1983)
4 (providing that the court “need only satisfy itself that there is no clear error on the face of
5 the record in order to accept the recommendation”).

6 In light of Plaintiff’s objection to the R&R, this Court has engaged in a *de novo*
7 review to determine whether to adopt the R&R. Judge Baldwin found that Defendants are
8 entitled to summary judgment because Plaintiff cannot establish: (1) deliberate
9 indifference for his Eighth Amendment claim; or that (2) he is similarly situated to other
10 inmates necessary to sustain his Fourteenth Amendment Equal Protection claim. (ECF
11 No. 42 at 8-11.)

12 Plaintiff objects that Defendants know Plaintiff needs testosterone therapy
13 treatment (“TRT”), but Plaintiff offers no supporting evidence other than pointing to his
14 formal communications and grievances to Defendants. (ECF No. 43 at 4-6, 8.) To the
15 contrary, Judge Baldwin found that the undisputed results of the three tests and Dr.
16 Arana’s declaration indicate that Plaintiff’s testosterone levels are within the normal range
17 for a male of his age and, therefore, he does not need TRT. (ECF No. 42 at 8-9.) See
18 *Toguchi v. Chung*, 391 F.3d 1051, 1058 (holding that prison officials are not deliberately
19 indifferent simply because they prescribe a treatment that an inmate disagrees with). To
20 the extent Plaintiff points to Dr. Adamson’s statements that Plaintiff should receive TRT
21 (ECF No. 42 at 6), Judge Baldwin correctly found that disagreement between medical
22 professionals is not enough to establish deliberate indifference (ECF No. 43 at 9.) See
23 *Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996). Plaintiff also objects that he is
24 being treated differently from transgender inmates who are receiving TRT. (ECF No. 43 at
25 5, 9.) But as Judge Baldwin pointed out, however, Plaintiff’s testosterone level is at least
26 thirty times higher than transgender inmate Nall, whom Plaintiff attempts to compare
27 himself to. (ECF No. 42 at 10-11.)

28

Having reviewed briefs relating to the Motion and Plaintiff's Objection, the Court agrees with Judge Baldwin and will overrule Plaintiff's Objection and adopt the R&R in full.²

III. CONCLUSION

The Court notes that Plaintiff made several arguments and cited to several cases not discussed above. The Court has reviewed these arguments and cases and determines that they do not warrant discussion as they do not affect the outcome of the Motion before the Court.

It is therefore ordered, adjudged and decreed that the Report and Recommendation of Magistrate Judge Carla L. Baldwin (ECF No. 42) is accepted and adopted in its entirety.

It is ordered that Defendants' motion for summary judgment (ECF No. 29) is granted.

It is further ordered that Plaintiff's motion for new and updated testing (ECF No. 37) is denied as moot.

It is further ordered that the Clerk of Court enter judgment in accordance with this order and close this case.

DATED THIS 23rd day of July 2020.



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE

²Plaintiff's Objection also discusses qualified immunity (ECF No. 43 at 7), but Judge Baldwin declined to address the issue because found that there was no Eighth or Fourteenth Amendment violation to begin with (ECF No. 42 at 11 n.4). As such, the Court declines to address qualified immunity here.